

FILED

AUG 21 1997

SECRETARY, BOARD OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE PETITION	:	
FILED BY THE DIVISION OF OIL,	:	
GAS AND MINING FOR AN ORDER	:	NOTICE OF AGENCY ACTION
FINDING THAT UTAH BUILDING	:	
STONE SUPPLY HAS WILLFULLY	:	
VIOLATED THE MINED LAND	:	DOCKET NO. 97-017
RECLAMATION ACT AT THE	:	CAUSE NO. M/003/031
GROUSE CREEK QUARRY,	:	
BOX ELDER COUNTY, UTAH,	:	
AND AUTHORIZING CIVIL ACTION	:	
BY THE ATTORNEY GENERAL.	:	

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The Division of Oil, Gas and Mining ("the Division"), hereby petitions the Board of Oil, Gas and Mining, for an Order finding the operator of the Grouse Creek Quarry, located in portions of Sections 2, 3, 4, 10, and 11, Township 12 North Range 17 West; and Sections 34 and 35, Township 13 North, Range 17 West, Salt Lake Base Meridian, Box Elder County, Utah, in willful and knowing violation of the Utah Mined Land Reclamation Act and directing the Attorney General to seek civil penalties under Utah Code Annotated § 40-8-9 (1953, as amended). The mine operator and owner is William Bown, who is doing business as Utah Building Stone Supply ("UBSS").

JURISDICTION

1. This action is brought by the Division pursuant to Utah Code Annotated § 40-8-7 (1953, as amended).

2. Jurisdiction over this matter is conferred upon the Board of Oil, Gas and Mining ("Board") by Utah Code Annotated § 40-8-6 (1953, as amended).

NOTICE REQUIREMENTS

3. Pursuant to Sections 63-46b-6 to 63-46b-11 of Utah Code Annotated (1953, as amended), the hearing will be conducted formally.

4. The hearing will be held on September 24, 1997 at 10.00 a.m. Any party who fails to appear at said hearing may be held in default.

5. The names and addresses of all persons to whom Notice of Agency Action shall be given are attached as EXHIBIT "1" and by this reference incorporated herein. All other exhibits will be provided at a later date.

STATEMENT OF THE CASE

UBSS had operated a large mining operation ("LMO") without approval of its Notice of Intention as required by Utah Code Annotated § 40-8-13 (1953, as amended) and R647-4-101. On May 28, 1997, the Board ordered UBSS not to remove mineral materials and advised UBSS that continued removal of said materials would constitute a willful violation of the Utah Mined Land Reclamation Act. On August 19, 1997, William Bown doing business as UBSS was observed removing said material from the site in violation of the Board order and Utah Code Annotated § 40-8-6 (1953, as amended).

STATEMENT OF THE FACTS

1. On January 21, 1997, the Division ordered the suspension of operations at the Grouse Creek Quarry. (EXHIBIT A).
2. On February 3, 1997, the Division receives a written appeal of the Notice of Agency Action from the operator. (EXHIBIT B).
3. On February 27, 1997, the informal hearing is held at the Division.
(EXHIBIT C).
4. On March 25, 1997, the Division Director, Jim Carter rules against UBSS.
(EXHIBIT D).
5. On April 1, 1997, UBSS appeals the March 25, ruling. (EXHIBIT E).
6. On May 12, 1997, UBSS withdraws its appeal of the ruling. (EXHIBIT F).
7. On May 22, 1997, UBSS signs a stipulation that states it will remain in suspension and that a violation of the stipulation will constitute a willful violation of the Utah Mined Land Reclamation Act. (EXHIBIT G).
8. On May 28, 1997, The Board issues an order based on the stipulation.
(EXHIBIT I).
9. On August 19, 1997, William Bown is observed removing mineral materials from the Grouse Creek Quarry in violation of the Board Order.

COUNT I

10. The Division incorporates by reference paragraphs 1 through 9 as stated above.

11. The operator of record, UBSS has willfully and or knowingly evaded the Mined Land Reclamation Act a violation of Utah Code Annotated § 40-8-9 (1953, as amended).

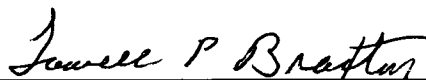
PRAYER FOR RELIEF

WHEREFORE, The Division requests that the Board enter the following order:

A. A finding that UBSS has willfully and/or knowingly evaded the Mined Land Reclamation Act.

B. An authorization from the Board for the Attorney General to seek civil penalties pursuant to Utah Code Annotated § 40-8-9 (1953, as amended).

REQUESTED this 21 day of August, 1997.



Lowell Braxton, Acting Director
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801
Telephone: (801) 538-5340

EXHIBIT 1

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF AGENCY ACTION for Docket No. 97-017, Cause No. M/003/031 to be mailed by certified mail, postage prepaid, this 21 day of August, 1997, to the following:

William Bown ✓
Utah Building Stone Supply
842 West 400 North
West Bountiful, Utah 84087

Preston Bown ✓
Utah Building Stone Supply
842 West 400 North
West Bountiful, Utah 84087

Mike Ford ✓
Bureau of Land Management
Salt Lake District Office
2370 South 2300 West
Salt Lake City, Utah 84119

John Blake ✓
School and Institutional
Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

Sent by Hand Delivery to:

Patrick J. O'Hara
Assistant Attorney General
1594 West North Temple, Suite 300
P.O. Box 140855
Salt Lake City, UT 84114-0855

Daniel G. Moquin
Assistant Attorney General
1594 West North Temple, Suite 300
P.O. Box 140855
Salt Lake City, UT 84114-0855

Courtesy Copy to:

Lynn Kunzler, Senior Reclamation Specialist
Division of Oil, Gas & Mining

Diane Rubey